

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: ALLEGHENY

MDJ: Hon. BETH S. MILLS
Magisterial District Number: 05-2-26
Address: 2611 HAYDEN BLVD.
SUITE 3
ELIZABETH, PA 15037
Phone: 412.382.3050



POLICE CRIMINAL COMPLAINT
COMMONWEALTH OF PENNSYLVANIA
VS.

DEFENDANT:

(NAME and ADDRESS):

TIMOTHY

L

BUTLER

First Name

Middle Name

Last Name

Gen.

7009 PENNSYLVANIA AVE FINLEYVILLE, PA 15332

NCIC Extradition Code Type

Felony - Full Extradition

Distance: _____

DEFENDANT IDENTIFICATION INFORMATION

Docket Number 258	Date Filed 2/1/18	OTN/LiveScan Number G 826264-5	Complaint/Incident Number L-712-2018	Request Lab Services? <input type="checkbox"/> Yes
DOB 07/02/1976	POB	Add'l DOB	Co-Defendant(s) <input type="checkbox"/>	
RACE WHITE	First Name	Middle Name	Last Name	Gen.
ETHNICITY	AKA			
HAIR COLOR BRO (BROWN)	EYE COLOR BLU (BLUE)			
DNA	DNA Location		WEIGHT (lbs.)	
FBI Number	MNU Number		Ft. HEIGHT In.	
Defendant Fingerprinted			5	07
Fingerprint Classification				

DEFENDANT VEHICLE INFORMATION

Plate #	State	Hazmat	Registration Sticker (MMYY)	Comm'l Veh. Ind.	School Veh.	Oth. NCIC Veh. Code	Reg. Same as Def.
VIN	Year	Make	Model	Style	Color		<input type="checkbox"/>

Office of the attorney for the Commonwealth ☐ Approved ☐ Disapproved because: _____

(The attorney for the Commonwealth may require that the complaint, arrest warrant affidavit, or both be approved by the attorney for the Commonwealth prior to filing. See Pa.R.Crim.P. 507).

name of the attorney for the Commonwealth)

(Signature of the attorney for the Commonwealth)

(Date)

I, LYLE GRABER

37392

(Name of the Affiant)

(PSP/MPOETC -Assigned Affiant ID Number & Badge #

of DISTRICT ATTORNEYS DETECTIVES

PA002013A

(Identify Department or Agency Represented and Political Subdivision)

(Police Agency ORI Number)

do hereby state: (check appropriate box)

1. X I accuse the above named defendant who lives at the address set forth above
I accuse the defendant whose name is unknown to me but who is described as _____

I accuse the defendant whose name and popular designation or nickname are unknown to me and whom I have, therefore, designated as John Doe or Jane Doe

with violating the penal laws of the Commonwealth of Pennsylvania at

428

ELIZABETH BORO

(Subdivision Code)

(Place/Political Subdivision)

In Allegheny County

02

(County Code)

on or about 01/01/2017 8:00

COPY



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed:	OTN/LiveScan Number G 826264-5	Complaint/Incident Number L-712-2018
Defendant Name	First: TIMOTHY	Middle: L	Last: BUTLER

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically.
(Set forth a *brief* summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated. In addition, social security numbers and financial information (e.g. PINS) should not be listed. If the identity of an account must be established, list only the last four digits. 204 PA.Code §§213.1 – 213.7.)

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903						
X	1	3921	A	of the	18	2	F3		
Lead?	Offense#	Section	Subsection		PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code
PennDOT Data (if applicable)		Accident Number				<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone		
Statute Description/Acts of the accused associated with this Offense:									
18 3921A THEFT BY UNLAWFUL TAKING F3 2 COUNTS AMOUNT TAKEN WAS MORE THAN \$2,000 The actor unlawfully took, or exercised unlawful control over movable property, namely Controlled Substances, with a total value greater than or equal to \$2000 and less than \$100,000 from Commonwealth of PA, with the intent to deprive the owner thereof, in violation of 18 Pa. C.S. §3921(a).LESS THAN \$100,000 AMOUNT TAKEN WAS MORE THAN \$2,000 The actor unlawfully took, or exercised unlawful control over movable property, namely Elizabeth Borough parking meter currency, with a total value greater than or equal to \$2000 and less than \$100,000 from Elizabeth Borough, with the intent to deprive the owner thereof, in violation of 18 Pa. C.S. §3921(a) LESS THAN \$100,000									



POLICE CRIMINAL COMPLAINT

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Defendant Name	First TIMOTHY	Middle: L	Last: BUTLER

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903						
Lead?	2	3927	A	of the	18	2	F3	NCIC Offense Code	UCR/NIBRS Code
PennDOT Data (if applicable)	Offense#	Section	Subsection	PA Statute (Title)	Counts	Grade			
	Accident Number					<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone		
Statute Description/Acts of the accused associated with this Offense:									
18 3927A THEFT BY FAILURE TO MAKE REQUIRED DISPOSITION OF FUNDS RECEIVED F3 2 COUNTS									
The actor obtained property, namely Controlled Substances belonging to Commonwealth of PA upon an agreement, or subject to a known legal obligation, to make specified payments or other disposition, whether from such property or its proceeds or from the actor's own property to be reserved in equivalent amount and intentionally dealt with the property obtained as the actor's own and failed to make the required payment or disposition, in violation of 18 Pa.C.S. §3927(a).									
The actor obtained property, namely Elizabeth Borough parking meter money belonging to Elizabeth Borough upon an agreement, or subject to a known legal obligation, to make specified payments or other disposition, whether from such property or its proceeds or from the actor's own property to be reserved in equivalent amount and intentionally dealt with the property obtained as the actor's own and failed to make the required payment or disposition, in violation of 18 Pa.C.S. §3927(a).									

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903						
Lead?	3	5101		of the	18	2	M2	NCIC Offense Code	UCR/NIBRS Code
PennDOT Data (if applicable)	Offense#	Section	Subsection	PA Statute (Title)	Counts	Grade			
	Accident Number					<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone		
Statute Description/Acts of the accused associated with this Offense:									
18 5101 OBSTRUCTING ADMINISTRATION OF LAW OR OTHER GOVERNMENT FUNCTION M2 2 COUNTS									
The actor intentionally obstructed, impaired or perverted the administration of law or other governmental function by force, violence, physical interference, obstacle, breach of official duty, or any other unlawful act, that is to say the actor, as Elizabeth Borough Chief of Police, unlawfully took or exercised unlawful control over controlled substances previously seized by law enforcement, in violation 18 Pa. C.S. §5101.									
The actor intentionally obstructed, impaired or perverted the administration of law or other governmental function by force, violence, physical interference, obstacle, breach of official duty, or any other unlawful act, that is to say the actor, as Elizabeth Borough Chief of Police, unlawfully took or exercised unlawful control over Elizabeth Borough parking meter money, in violation 18 Pa. C.S. §5101.									



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Defendant Name	First: TIMOTHY	Middle: L	Last: BUTLER

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903					
4	780-113	A16	of the	35	2	M		
Lead?	Offense#	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code
PennDOT Data (if applicable)	Accident Number				<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone		
Statute Description/Acts of the accused associated with this Offense:								
<p>35 780-113A16 PROHIBITED ACTS - POSSESSION M 2 COUNTS</p> <p>The actor knowingly or intentionally possessed a controlled or counterfeit substance, namely, heroin the said actor not then and there being registered under the Controlled Substance, Drug, Device and Cosmetic Act, Act of April 14, 1972, or a practitioner registered or licensed by the appropriate State Board, in violation of 35 P.S. §780-113(a)(16).</p> <p>The actor knowingly or intentionally possessed a controlled or counterfeit substance, namely, fentanyl the said actor not then and there being registered under the Controlled Substance, Drug, Device and Cosmetic Act, Act of April 14, 1972, or a practitioner registered or licensed by the appropriate State Board, in violation of 35 P.S. §780-113(a)(16).</p>								



POLICE CRIMINAL COMPLAINT

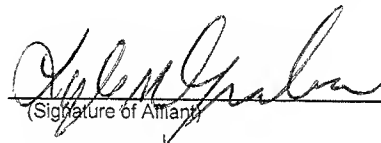
Docket Number:	Date Filed:	OTN/LiveScan Number G 826264-5	Complaint/Incident Number L-712-2018
Defendant Name	First: TIMOTHY	Middle: L	Last: BUTLER

2. I ask that a warrant of arrest or a summons be issued and that the defendant be required to answer the charges I have made.
3. I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 PA.C.S. §4904) relating to unsworn falsification to authorities.
4. This complaint is comprised of the preceding page(s) numbered 1 through 5
5. I certify that this filing complies with the provisions of the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania that require filing confidential information and documents differently than non-confidential information and documents.

The acts committed by the accused, as listed and hereafter, were against the peace and dignity of the Commonwealth of Pennsylvania and were contrary to the Act(s) of the Assembly, or in violation of the statutes cited.

(Before a warrant of arrest can be issued, an affidavit of probable cause must be completed, sworn to before the issuing authority, and attached.)

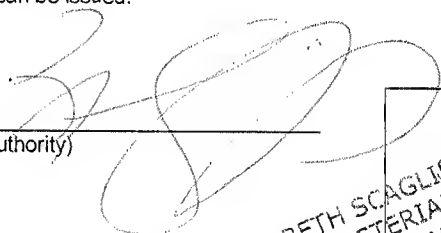
(Date)


(Signature of Affiant)

AND NOW, on this date 12-20-18 I certify that the complaint has been properly completed and verified.

An affidavit of probable cause must be completed before a warrant can be issued.

05-2-26
(Magisterial District Court Number)


(Issuing Authority)

BETH SCAGLIONE MILLS
MAGISTERIAL DISTRICT JUDGE
MAGISTERIAL DISTRICT 05-2-26
MY COMMISSION EXPIRES ON THE
FIRST MONDAY IN JANUARY, 2020



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Defendant Name	First: TIMOTHY	Middle: L	Last: BUTLER

AFFIDAVIT of PROBABLE CAUSE

1. **WHEN:**

- a) Date when Affiant received information:
12/07/2018
- b) Date when the source of information (Police Officers, Informant, Victim, Co-Defendant, Defendant, etc.) received information:
12/06/2018

2. **HOW:**

- a) How Affiant knows this particular person committed crime: (personal observation, defendant's admissions, etc.):
defendant's admissions to witnesses, physical evidence, information from police officers
- b) How the source of information knows this particular person committed the crime:
defendant's admissions, information from police officers, physical evidence
- c) How both Affiant and/or source of information knows that a particular crime has been committed:
defendant's admissions, information from police officers, physical evidence

3. **WHAT CRIMES:**

18 5101 OBSTRUCTING ADMINISTRATION OF LAW OR OTHER GOVERNMENT FUNCTION
18 3921 A THEFT BY UNLAWFUL TAKING
18 3927 A THEFT BY FAILURE TO MAKE REQUIRED DISPOSITION OF FUNDS RECEIVED
18 5101 OBSTRUCTING ADMINISTRATION OF LAW OR OTHER GOVERNMENT FUNCTION
18 3921 A THEFT BY UNLAWFUL TAKING
35 780-113 A16 PROHIBITED ACTS - POSSESSION
35 780-113 A16 PROHIBITED ACTS - POSSESSION
18 3927 A THEFT BY FAILURE TO MAKE REQUIRED DISPOSITION OF FUNDS RECEIVED

4. **WHERE CRIME(S) COMMITTED:**

ELIZABETH BOROUGH POLICE DEPARTMENT

5. **WHY AFFIANT BELIEVES THE SOURCE OF INFORMATION:**

- X Source is presumed reliable, i.e. other Police Officer, Eyewitness, Victim of Crime, etc.
- X Source has given information in the past which has led to arrest and/or conviction
Defendant's reputation for criminal activity
This source made declaration against his/her penal interest to the above offense
- X Affiant and/or other Police Officers corroborated details of the information



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Docket Number:	Date Filed:	OTN/LiveScan Number G 826264-5	Complaint/Incident Number L-712-2018
Defendant Name	First: TIMOTHY	Middle: L	Last: BUTLER

The affiant of this affidavit is Detective Lyle M. Graber, a police officer of the Commonwealth of Pennsylvania within the meaning of Pennsylvania statutory law and Rules of Criminal Procedure, and, as such, I am empowered to file criminal charges and to make arrests for criminal offenses enumerated therein. I was a Pennsylvania State Police Officer from March 15, 1982 until my retirement on August 24, 2007. During my tenure with the Pennsylvania State Police, I was assigned as a criminal investigator in May of 1995, the function of which was to investigate all facets of criminal activity. On July 20, 1987, I was assigned to the Pennsylvania State Police Bureau of Criminal Investigations, Western Organized Crime Unit, Allegheny County, Pennsylvania. I worked in that capacity until my retirement in August of 2007, after which I was sworn as a Detective in the Office of the District Attorney of Allegheny County within the Investigations unit, a position that has continued to date.

On December 10, 2018, Elizabeth Borough Police Sergeant Garrett Kimmell was interviewed and stated the following: On December 6, 2018 and again on December 7, 2018, Sgt. Kimmell was advised by other police officers of suspicious behavior on the part of Elizabeth Borough Police Chief Timothy Butler. This behavior included officers having observed Chief Butler interacting with a known actor, who, when found in possession of suspected heroin, told officers he was making controlled narcotics buys on behalf of Chief Butler. Kimmell advised that it would have been highly unlikely Butler was involved in a drug investigation without his knowledge and participation.

On December 7, 2018, Kimmell was at the Elizabeth Borough Police Department and questioned Chief Butler about his recent suspicious behavior. After initially denying any problems, Butler stated that he was addicted to heroin. Butler explained he became addicted after taking prescribed Vicodin for neck and back pain, and blamed the doctors. Kimmell asked Butler if there were any issues related the Department or missing evidence. Butler apologized and stated that "it was a mess". When asked how bad the evidence problem was, Butler stated that "it was all gone", that any heroin in evidence was all gone. Kimmell then notified Borough Solicitor Krisha DiMascio, Mayor Barry Boucher and Council President Paul Shanner of Butler's admissions, and remained with Butler at the police station until they arrived. Butler was then placed on paid leave, turned over all Borough property, the evidence room key, his badge, MPOETC card, and driven home. Kimmell then requested the assistance of Clairton Police Chief Hoffman, who, along with PO McDanel, arrived and conducted the search of Chief Butler's office and the evidence room. Kimmell stated that when drugs were seized, they would be packaged and sent to the lab for testing prior to being entered into the evidence room. Once returned, they would be given to Chief Butler, who was the sole evidence custodian. Chief Butler was also responsible for any evidence destruction. Sgt. Kimmell stated that there had been several recent large heroin seizures in which the heroin should still be present in the evidence room. Kimmell advised that he most often took the responsibility of transporting drugs to/from the lab, and always turned over the evidence to Chief Butler upon return.

On December 7, 2018, Sgt. Kimmell and Clairton Officer McDanel conducted an inventory search of Chief Butler's office. Evidence envelopes or bags originally labeled as having contained controlled substances were located throughout Butler's office and observed to have been torn open or opened and re-sealed. The controlled substance primarily involved was heroin, packaged in individual white wax paper bags. Oftentimes these bags are stamped with an inked stamp "label" to identify that particular batch or source of heroin. These bags were either individual bags, aka "bag"; 10 rubber-banded bags known as a "bundle"; 50 bags (5 bundles) known as a "brick". (Estimated street values are: \$6-\$8 per bag; \$55-\$75 per bundle, or \$170-\$200 per brick) Some tampered evidence envelopes or bags were empty. Others contained all or a portion of the suspected heroin packaged as bags, bundles or bricks, but the heroin originally contained within the bags had been removed and the bags, re-folded and sealed with tape. Numerous "bags" were discovered loose in and around Chief Butler's desk or within the garbage can. All of the tampered evidence was secured and sealed by Sgt. Kimmell and Officer McDanel pending further investigation. Sgt. Kimmell and Officer McDanel next unlocked the evidence room utilizing and removed all known/identified drug evidence. These items, together with the bin containing items discovered in the Chief's office area, were transported and secured by McDanel within Clairton Police Department's evidence room.

On December 11, 2018, Elizabeth Borough Solicitor Krisha A. DiMascio was interviewed and stated that on December 10, 2018,



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Sgt. Kimmell contacted her and stated "we have a problem with Chief Butler". DiMascio contacted Elizabeth Mayor Barry Boucher and Council President Paul Shanner, and the three met with Kimmell and Butler at the Borough building. Butler was crying at the time, and apologized, stating that he could not believe this was happening to him. Butler also blamed the doctor, relating "once they got me off the pills I had no choice".

On December 12-13, 2018, your affiant and Detective Tim Cross examined the evidence initially collected by Sgt. Kimmell and others from Chief Butler's office and the Elizabeth Borough evidence room. Recovered from the trash can in Chief Butler's office were approximately 62 bundles and 2700 loose stamp bags. These items were all examined and found to be emptied of contents. The bundles had all been resealed with tape and re-bundled with rubber bands to appear intact. Also within the garbage can were opened evidence envelopes which were labeled to have contained controlled substances.

Recovered from within and around Chief Butler's desk were approximately 535 loose stamp bags. These items were all examined and found to be emptied of contents. There was one small sealed plastic bags containing stamp bags which appeared to still contain suspected controlled substances. This bag was marked with lab number 1805945 and a date of 8/27/18. Additional bags or evidence envelopes were discovered, some of which were also marked with lab number 1805945 and a date of 8/27/18. One such envelope was labeled to have originally contained 30 bricks of heroin. Another envelope was labeled to have contained 3 bricks of heroin. Other Ziploc bags marked with lab number 1805945 were found to contain emptied individual stamp bags. According to the corresponding Allegheny County Division of Forensic Laboratories Lab Case No. 18LAB05945, this original evidence contained both Fentanyl [collective gross weight of 12.251 grams] and Heroin [collective gross weight 9.5 grams].

Another open evidence envelope was labeled to have originally contained "approx. 2531 bags of heroin" but was empty. According to the corresponding Allegheny County Division of Forensic Laboratories Lab Case No. 17LAB05392, this original evidence contained Heroin [collective gross weight 737.1 grams].

Other evidence envelopes labeled to have originally contained heroin and other controlled substances were found to be missing the heroin, yet these other labeled controlled substances, i.e., suspected marijuana, appeared intact.

A review of the controlled substance evidence discovered within the Elizabeth Borough evidence room reflected similar issues. Evidence envelopes or bags which were labeled to have contained (primarily) heroin were opened, opened and resealed or missing.

Among controlled substance evidence missing was an envelope originally labeled to contain 1000 stamp bags of heroin. The corresponding lab number for that evidence was 1510940/1B. Found within that bag were 900 stamp bags, empty of contents. Another tampered envelope was originally labeled to contain 146 bags of heroin, with corresponding lab number 15LAB06851. Found within that envelope were 134 stamp bags, empty of contents. According to the corresponding Allegheny County Division of Forensic Laboratories Lab Case No. 15LAB06851, this original evidence was returned untested after notification by Chief Butler that the case had been adjudicated.

Another tampered envelope was originally labeled to contain 627 bags of heroin, with corresponding lab number 1608280. Found within that envelope were 554 stamp bags, empty of contents. According to the corresponding Allegheny County Division of Forensic Laboratories Lab Case No. 16LAB08280, this original evidence contained Heroin [collective gross weight 29.738 grams].

Multiple other evidence envelopes or bags originally labeled to contain heroin were found to be tampered with, opened and contents removed. Evidence labeled as containing both heroin and other controlled substances most often still contained the other controlled substances, but the heroin was removed from the packaging.

Kimmell also advised that Butler - who as Chief of Police was tasked with collecting and depositing the parking meter money - apparently failed to deposit meter money for the year 2017. According to Kimmell, the annual deposits between 2013 and 2016



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were:

2013 - \$5,503.25

2014 - \$4,694.36

2015 - \$5,944.00

2016 - \$4,148.02

2017 - No deposits made by Butler.

2018 - \$2,355.50

Elizabeth Borough Secretary Pam Sharp later confirmed these annual meter deposit amounts were accurate, and had been deposited into the Borough's PNC account. Sharp stated that Chief Butler had been responsible for counting, rolling and depositing the parking meter money, and had used a coin counter located in his office for that purpose. Sharp also advised that the Borough parking meters were in place and functioning during 2017.

The statements contained in this affidavit are based on my experience and background as a police officer and are drawn from statements received from other officers involved in this investigation or witnesses to the above-described activities; these statements were either heard personally by your affiant or were told to other detectives who then relayed that information to me. Based on the information contained herein, your affiant avers that probable cause exists for the following offenses:

Title 18 Section 3921 Theft by Unlawful Taking or Disposition (2 counts);

Title 18 Section 3927 Theft by Failure to Make Required Disposition of Funds
Received (2 counts);

Title 18 Section 5101 Obstructing Administration of Law or Other Government
Function (1 count)

Title 18 35 P.S. §780-113(a)(16) CSDDCA - Possession (2 counts)

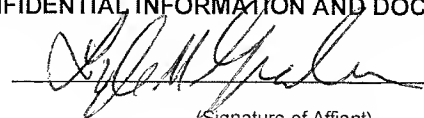


POLICE CRIMINAL COMPLAINT

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Defendant Name	First: TIMOTHY	Middle: L	Last: BUTLER

I, LYLE GRABER, BEING DULY SWORN ACCORDING TO THE LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

I CERTIFY THAT THIS FILING COMPLIES WITH THE PROVISIONS OF THE CASE RECORDS PUBLIC ACCESS POLICY OF THE UNIFIED JUDICIAL SYSTEM OF PENNSYLVANIA THAT REQUIRE FILING CONFIDENTIAL INFORMATION AND DOCUMENTS DIFFERENTLY THAN NON-CONFIDENTIAL INFORMATION AND DOCUMENTS.


(Signature of Affiant)

Sworn to me and subscribed before me this 20th day of December 2018
_____, Magisterial District Judge

My commission expires first Monday of January, 2020

SEAS
BETH SCAGLINE MILLS
MAGISTERIAL DISTRICT JUDGE
MAGISTERIAL DISTRICT 05-2-26
MY COMMISSION EXPIRES ON THE
FIRST MONDAY IN JANUARY, 2020